

Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

VENICE PI, LLC,

Plaintiff,

v.

EDWARD JILES;
MICHAEL SMITH;
BILLY JOE GAMBILL;
TSIMAFEI SHAPAVAL;
FAIMAFILI MIKA;
ROBERT BOVITZ; and
JONATHAN GARCIA,

Defendants.

Civil Action No. 17-cv-1211TSZ


OBJECTION TO DEFENDANT SMITH'S
SUBMISSION (DKT. 59)

Plaintiff objects to Defendant Smith's submission of a Response to Plaintiff's Reply to the motion to dismiss (Dkt. #59). Defendant filed a 30 page "response" more than a month after the reply. This submission contains new assertions not permitted by the Local Rules, and further advances arguments that could be construed as evidence that is outside the pleadings and not permitted in a motion to dismiss. The arguments are also lacking in foundation. Although the submission is not a surreply under LR 7(g) because it is not an objection or motion to strike content of the reply, it would not otherwise comply with LR 7(g), *inter alia* because this filing (a) was not preceded by the required notice of intent to file a surreply (LR 7(g)(1)), (b) is untimely as not filed within five days of Plaintiff's reply brief and not strictly limited to addressing a request to strike

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1 and containing extraneous argument (LR 7(g)(2)), and (c) exceeds three pages. (LR 7(g)(3)).
2 Plaintiff therefore objects and requests that it be stricken.

3 RESPECTFULLY SUBMITTED February 15, 2018.

4 s/ David A. Lowe, WSBA No. 24,453

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10 Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served to all counsel or parties of record who are deemed to have consented to electronic service via the Court's CM/ECF system, and as follows via U.S. Mail:

Michael Smith
521 S. Yantic Ave
Bremerton, WA 98312

s/ David A. Lowe

OBJECTION TO DEFENDANT SMITH'S
SUBMISSION (DKT. 59) - 3

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